

HONORABLE ROBERT S. LASNIK

Trial Date: March 2, 2020

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ROBERT NEFF, an individual,

Plaintiff,

vs.

ZEWDNEH N. DESTA and JANE DOE
DESTA, husband and wife, K&B
TRANSPORTATION, INC., a foreign
corporation, and SAFEWAY, INC., a foreign
corporation,

Defendants.

No. 2:18-cv-01716 RSL

STIPULATED MOTIONS IN LIMINE AND
PROPOSED ORDER

NOTE ON MOTION CALENDAR:

February 3, 2020

The parties, by and through their counsel, conferred on their respective potential motions in limine on January 30, 2020 pursuant to LCR 7(d)(4). Based on that conference, the parties stipulate to the following:

1. No party will offer evidence or argument about the existence of insurance.
2. No party will offer evidence or argument about the prior settlement offers exchanged in the case.
3. No party will offer evidence of collateral sources, like health insurance, worker's compensation, or other benefit Plaintiff received after the subject accident.

STIPULATED MOTIONS IN LIMINE AND
PROPOSED ORDER (Cause No. 2:18-cv-01716
RSL) – 1
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 WILSON
SMITH
COCHRAN
DICKERSON

901 FIFTH AVENUE, SUITE 1700
SEATTLE, WASHINGTON 98164
TELEPHONE: (206) 623-4100
FAX: (206) 623-9273

- 1 4. No party will present any witnesses not previously disclosed or documents not
- 2 previously produced.
- 3 5. No party will offer any expert opinions not previously disclosed.
- 4 6. No party will offer evidence or argument regarding tax implications of an award in
- 5 Plaintiff's favor.
- 6 7. The defendants will not refer to Dr. Toomey's exam as an "independent" medical
- 7 examination.
- 8 8. The parties will not offer evidence or argument regarding prior motions filed by
- 9 either party in the case, including motions in limine.
- 10 9. The parties will not offer any evidence or argument regarding either Mr. Neff or
- 11 Mr. Desta being under the influence of drugs or alcohol. Nor will they offer
- 12 evidence or argument regarding post-accident drug testing requirements or drug
- 13 tests (or lack thereof).
- 14 10. The parties will not submit any Rule 26 expert reports into evidence.
- 15 11. The parties will not offer any evidence or argument regarding any of their
- 16 pecuniary statuses, wealth, or poverty.
- 17 12. Non-parties will be excluded from the court until after they testify.
- 18 13. Plaintiff will not offer evidence or argument that Mr. Desta (or K&B
- 19 Transportation) acted recklessly but will limit his claims to negligence.
- 20 14. Plaintiff will not offer evidence or argument that K&B Transportation acted
- 21 negligently (or recklessly) but can inform the jury of the vicarious liability claim
- 22 asserted against it.
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- 1 15. The parties will not offer evidence or argument of K&B's 2015 Safety Manual
2 produced in this case as K&B 709-765.
- 3 16. The parties will not offer evidence or argument of any malpractice claims or
4 complaints to quality review boards against any doctor or medical provider who
5 will testify in this case as either an expert or treatment provider.
- 6 17. The parties will not offer any type of "golden rule" evidence or argument which
7 ask the jurors to put themselves in the shoes of one of the parties.
- 8 18. The parties will not elicit any testimony from Clifford McQuarrie regarding either
9 of their alleged fault in this case since Mr. McQuarrie was not disclosed as an
10 expert. Any testimony elicited from him or cross examination of him will be
11 limited to his observations as a percipient witness.
- 12 19. The parties will provide each other with at least one court days' notice of
13 witnesses who will be called to testify at trial.
- 14 20. The parties' stipulate that Plaintiff's wage loss claim will be limited to past wages
15 of \$42,983, which is the amount of temporary total disability benefits paid to
16 Plaintiff as a result of the accident. Evidence that Plaintiff received disability
17 benefits will not be admissible under the collateral source rule. In exchange for
18 Plaintiff not claiming the accident will affect or impair his ability to work or earn a
19 living in the future, Defendants agree not to introduce any evidence of Plaintiff's
20 tax records or tax history (or lack thereof).
- 21 21. The parties will not offer evidence or argument regarding Plaintiff's prior motor
22 vehicle accidents.
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1 22. The parties will not offer evidence or argument regarding Plaintiff's pre-accident
2 medical condition(s).

3 23. The parties will not offer evidence or argument regarding Plaintiff's smoking
4 history.

5 DATED: February 3, 2020.
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7 s/ Karen K. Koehler

8 Karen K. Koehler
9 Stritmatter Kessler Whelan Koehler Moore
10 3600 15th Avenue West, Suite #300
11 Seattle, WA 98119-1330
12 Phone: 206-448-1777
13 Fax: 206-728-2131
14 Email: Karenk@stritmatter.com
15 *Attorneys for Plaintiff*

16 s/Dylan E. Jackson

17 s/ Jeff M. Sbaih


18 Dylan E. Jackson
19 Jeff M. Sbaih
20 Wilson Smith Cochran Dickerson
21 901 5th Avenue, Suite 1700
22 Seattle, WA 98164
23 Phone: 206-623-4100
24 Fax: 206-623-9273
25 Email: jackson@wscd.com / sbaih@wscd.com
26 *Attorneys for Defendant K&B Transportation and
Zewdneh Desta*



ORDER

IT IS SO ORDERED.

DATED: 4th day of February, 2020.



Honorable Robert S. Lasnik
U.S. District Court Judge

